

**In the United States Court of Appeals
for the Eighth Circuit**

MINNESOTA TELECOM ALLIANCE, ET AL.,
Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION; UNITED STATES OF AMERICA,
Respondents.

On Petition for Review from the
Federal Communications Commission
(No. 22-69, FCC 23-100)

MOTION FOR LEAVE TO SUPPLEMENT THE RECORD

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eighth Circuit Rule 26.1A, Industry Petitioners make the following disclosures:

ACA Connects – America’s Communications Association has no parent corporation and no publicly held corporation owns 10% or more of its stock, pays 10% or more of its dues, or possesses or exercises 10% or more of the voting control of ACA Connects.

The Broadband Association of Alabama and Mississippi is a non-profit 501(c)(6) organization that has no parent company, and no publicly held company has a 10% or greater ownership interest in the Broadband Association of Alabama and Mississippi.

The Chamber of Commerce of the United States of America has no parent corporation, and no publicly held company owns 10% or more of its stock.

CTIA – The Wireless Association has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

Florida Internet & Television Association has no parent company, and no publicly held corporation owns 10% or more of its stock.

Longview Chamber of Commerce has no parent corporation, and no publicly held company owns 10% or more of its stock.

MCTA – The Missouri Internet & Television Association has no parent corporation, and no publicly traded corporation owns 10% or more of its stock.

The Minnesota Telecom Alliance is a non-profit 501(c)(6) organization that has no parent company, and no publicly held company has a 10% or greater ownership interest in the Minnesota Telecom Alliance.

NATE: The Communications Infrastructure Contractors Association (NATE) is a Section 501(c)(6) not-for-profit corporation organized under the laws of South Dakota. NATE does not have a parent corporation, and no publicly held corporation has an ownership stake of 10% or more in it.

National Multifamily Housing Council, Inc. (NMHC) is a Section 501(c)(6) not-for-profit corporation organized under the laws of Washington, D.C. NMHC does not have a parent corporation, and no publicly held corporation has an ownership stake of 10% or more in the corporation.

NCTA – The Internet & Television Association has no parent companies, subsidiaries, or affiliates whose listing is required by Rule 26.1.

Ohio Cable Telecommunications Association has no parent corporation, and no publicly traded corporation owns 10% or more of its stock.

The Ohio Telecom Association is a non-profit 501(c)(6) organization that has no parent company, and no publicly held company has a 10% or greater ownership interest in the Ohio Telecom Association.

Power & Communications Contractors Association (PCCA) is a Section 501(c)(6) not-for-profit corporation organized under the laws of Missouri. PCCA does not have a parent corporation and no publicly held corporation has an ownership stake of 10% or more in it.

Texas Association of Business has no parent corporation, and no publicly held company owns 10% or more of its stock.

Texas Cable Association has no parent corporation, and no publicly traded corporation owns 10% or more of its stock.

Texas Telephone Association is a non-profit 501(c)(6) organization that has no parent company, and no publicly held company has a 10% or greater ownership interest in the Texas Telephone Association.

USTelecom – The Broadband Association has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

Wireless Infrastructure Association (WIA) is a Section 501(c)(6) not-for-profit corporation organized under the laws of Virginia. WIA does not have a

parent corporation, and no publicly held corporation has an ownership stake of 10% or more in it.

WISPA – The Association For Broadband Without Boundaries has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

MOTION OF INDUSTRY PETITIONERS FOR LEAVE TO SUPPLEMENT THE RECORD

Industry Petitioners respectfully move this Court for leave to supplement the record with the attached proposed Special Appendix of Standing Declarations. Counsel for Industry Petitioners has contacted the other parties in this case for their position on the motion, and no party opposes.

In an agency rule challenge like this one, “a petitioner whose standing is not self-evident should establish its standing” by submitting affidavits or declarations with its “opening brief.” *Owner-Operator Indep. Drivers Ass’n v. U.S. Dep’t of Transp.*, 831 F.3d 961, 968 (8th Cir. 2016) (citation omitted); *Owner-Operator Indep. Drivers Ass’n v. U.S. Dep’t of Transp.*, 878 F.3d 1099, 1102 n.4 (8th Cir. 2018) (citation omitted). Industry Petitioners’ standing in this case is self-evident because Industry Petitioners have members that are the object of the challenged rule. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561-562 (1992); *Hunt v. Washington State Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977). But consistent with common practice in agency litigation, several Petitioners plan to submit standing declarations out of an abundance of caution.

The Eighth Circuit Rules, however, do not address the proper method for submitting such declarations. Industry Petitioners cannot include the

declarations in the required Addendum, because they exceed 15 pages in length. *See* 8th Cir. R. 28A(g)(2). Nor would it make sense to include the declarations in the parties' joint appendix, because the parties have deferred the filing of that appendix until briefing concludes in August. *See* Judge Order, Entry ID 5379523, (8th Cir. Apr. 2, 2024). In light of those constraints, the case manager for this case informed counsel for Industry Petitioners that the appropriate procedure is to file a motion for leave to supplement the record.

Industry Petitioners therefore respectfully request leave to supplement the record and file the attached Special Appendix of Standing Declarations.

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APRIL 22, 2024

CERTIFICATE OF COMPLIANCE

This motion complies with Federal Rule of Appellate Procedure 27(d)(2) and this Court's order of April 2, 2024 because it contains 300 words.

This motion also complies with the requirements of Federal Rule of Appellate Procedure 32(a) because it was prepared in 14-point font using a proportionally spaced typeface.

s/ Jeffrey B. Wall
JEFFREY B. WALL

APRIL 22, 2024

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2024, I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Jeffrey B. Wall
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APRIL 22, 2024